

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE:) CHAPTER 7
)
LOUISE ANN CONKLIN,) CASE NO. 07-63885
)
Debtor.) JUDGE RUSS KENDIG
)
)
)
) **MEMORANDUM OF OPINION**
) **(NOT INTENDED FOR**
) **PUBLICATION)**

This matter is before the court on Debtor's Application to Proceed *In Forma Pauperis* (hereafter "application") filed on December 27, 2007.

Following passage of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, debtors are permitted to seek a waiver of the bankruptcy filing fee. Pursuant to 28 U.S.C. § 1930(f), a “bankruptcy court may waive the filing fee . . . if the court determines that such individual has less than 150 percent of the income official poverty line . . . applicable to a family of the size involved and is unable to pay that fee in installments.” By the terms of the statute, a court’s ability to waive the fee is permissive, not mandatory (“may waive”), and is premised upon a finding that a debtor meets the income and inability to pay in installments criteria.

The court will first determine whether Debtors' income is 150 percent of the poverty level. According to the Department of Health and Human Services 2007 Poverty Level Guidelines, available at <http://aspe.hhs.gov/poverty/07poverty.shtml>, the poverty income for a family of three is \$17,170.00. At 150 percent of poverty, the poverty income for this family is \$25,755.00 annually, or \$2,146.25 per month.

According to the application, which is supported by a statement and affidavit filed with the court on December 27, 2007, Debtor's combined monthly income is \$774.00, derived from \$410.00 in welfare assistance and \$364.00 in food stamps. Both the B22A and Schedule I comport with this information. Further, Debtor attested that she has not been employed in 2007 and therefore has no wages to report and is not required to file a 2007 tax return. Based upon the information provided by Debtor, the court finds that she earns less than 150% of the poverty income and has established the first prong of the test.

Next, the court must determine if Debtor has the ability to pay the filing fee in installments. Upon review of Debtor's Schedule J, the court concludes that Debtor is not able to pay the filing fee in installments. Debtor's budget shows a monthly shortfall of \$424.00. There is no room in the budget to make up the shortfall, let alone add an

installment payment. Thus, the court finds that the Debtor does not have the ability to pay the filing fee in installments and she has satisfied the second prong of the test.

In light of the above, the Court hereby **GRANTS** Debtor's application to waive the filing fee.

An order in accordance with this decision shall be issued immediately.

/s/ Russ Kendig
RUSS KENDIG
U.S. BANKRUPTCY JUDGE

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